



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2019-0365; FRL – 9998-83-Region 9]

Air Plan Approval; Nevada; Revisions to Clark County Ozone Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to conditionally approve a revision to the State of Nevada's state implementation plan (SIP) for Clark County. The revision consists of an update to certain elements of the maintenance plan for the Clark County air quality planning area for the 1997 8-hour ozone national ambient air quality standards (NAAQS), including the emissions inventories, maintenance demonstration, and motor vehicle emissions budgets. The EPA is conditionally approving the SIP revision because the SIP it continues to provide for maintenance of the 1997 ozone NAAQS; upon fulfillment of certain commitments, it will not interfere with attainment or reasonable further progress of the other NAAQS; and the budgets meet the applicable transportation conformity requirements. The approval is conditional because it is based on commitments to submit an additional SIP revision to reduce the safety margin allocations for the budgets within one year of this final conditional approval.

DATES: This rule is effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R09-OAR-2019-0365, at <https://www.regulations.gov>. All documents in the docket are listed on the

<https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Karina O'Connor, Air Planning Office (AIR-2), EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105. By phone at (775) 434-8176 or by email at oconnor.karina@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, whenever “we,” “us,” or “our” is used, we mean the EPA. This supplementary information section is arranged as follows:

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I. Summary of the Proposed Action

On July 11, 2019 (84 FR 33035), under section 110(k)(4) of the Clean Air Act (CAA or “Act”), the EPA proposed to conditionally approve a SIP revision titled “Revision to Motor Vehicle Emissions Budgets in Ozone Redesignation Request and Maintenance Plan: Clark County, Nevada” (October 2018) (herein, referred to as the “2018 Ozone Maintenance Plan Revision”), submitted by the Nevada Division of Environmental Protection (NDEP) on October 31, 2018. The 2018 Ozone Maintenance Plan Revision updates certain elements of the maintenance plan for Clark County for the 1997 ozone NAAQS, including the attainment

inventory, the maintenance demonstration and the motor vehicle emissions budgets (“budgets”). The updated budgets replace Clark County’s existing budgets for the 1997 ozone NAAQS, and the previously-approved budgets will no longer be applicable for transportation conformity purposes on the publication date of this final conditional approval in the *Federal Register*.¹ We proposed a conditional approval based on commitments from NDEP and the Clark County Department of Air Quality (DAQ) to submit a SIP revision within one year of final conditional approval.² The purpose of the future SIP revision is to reduce the safety margin allocations in the budgets to ensure that the 2018 Ozone Maintenance Plan Revision, when revised to reduce the safety margin allocations, will not interfere with reasonable further progress or attainment of the 2008 and 2015 ozone NAAQS.

For more information on the background for this action, including a description of the ozone NAAQS, the ozone area designations for Clark County, the 2011 Ozone Maintenance Plan and the EPA’s MOVES emissions model, and the rationale for conditional approval of the 2018 Ozone Maintenance Plan Revision, please see our July 11, 2019 proposed rule.

II. Public Comments

The public comment period on the proposed rule opened on July 11, 2019, the date of its publication in the *Federal Register*, and closed on August 12, 2019. During this period, the EPA received no comments.

III. Final Action

For the reasons discussed in our July 11, 2019 proposed rule and summarized above, the EPA is taking final action under CAA section 110(k)(4) to conditionally approve the 2018 Ozone

¹ 40 CFR 93.118(f)(2)(v).

² Letter dated June 14, 2019, from Jodi Bechtel, Assistant Director, Clark County DAQ, to Greg Lovato, Administrator, NDEP; and letter dated June 21, 2019, from Greg Lovato, Administrator, NDEP, to Elizabeth Adams, Director, Air Division, EPA Region IX.

Maintenance Plan Revision submitted by NDEP on October 31, 2018, as a revision of the Clark County portion of the Nevada SIP. In so doing, we find that the 2011 Ozone Maintenance Plan, as revised by the updated attainment inventory and maintenance demonstration in the 2018 Ozone Maintenance Plan Revision, continues to provide for maintenance of the 1997 ozone NAAQS, and upon fulfillment of the commitments made by NDEP and Clark County DAQ to reduce the safety margin allocations for the budgets, will not interfere with reasonable further progress or attainment of the other NAAQS in Clark County. In conditionally approving the 2018 Ozone Maintenance Plan Revision, the EPA is also finding adequate and conditionally approving the updated oxides of nitrogen (NO_x) and volatile organic compound (VOC) budgets for 2008, 2015, and 2022 for the 1997 ozone NAAQS (shown in Table 1) based on our conclusion that the updated budgets meet the applicable transportation conformity requirements.

Table 1 – Ozone Motor Vehicle Emission Budgets (average summer weekday, tons per day)

Year	2018 Ozone Maintenance Plan Revision	
	NO_x	VOC
2008	89.50	42.46
2015	90.92	53.94
2022	86.74	52.96

Source: 2018 Ozone Maintenance Plan Revision, Table 3-1.

The approval of the 2018 Ozone Maintenance Plan Revision is conditional because it is based on commitments from NDEP and the Clark County DAQ to submit a SIP revision within one year of final conditional approval.³ The purpose of the future SIP revision is to reduce the safety margin allocations to the budgets to ensure that the 2018 Ozone Maintenance Plan Revision, when revised to reduce the safety margin allocations, will not interfere with reasonable further progress or attainment of the 2008 and 2015 ozone NAAQS.

³ Id.

Lastly, the revised budgets in Table 1 replace the existing approved budgets from the 2011 Ozone Maintenance Plan; the Regional Transportation Commission and the U.S. Department of Transportation must use these revised budgets for future transportation conformity determinations.

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely proposes to approve conditionally a state plan as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);

- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, this rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United

States prior to publication of the rule in the *Federal Register*. A major rule cannot take effect until 60 days after it is published in the *Federal Register*. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements.

(See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental regulations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: August 15, 2019.

Deborah Jordan,
Acting Regional Administrator,
Region IX.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52 — APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart DD — Nevada

2. In § 52.1470(e), the table is amended by adding an entry for “Revision to Motor Vehicle Emissions Budgets in Ozone Redesignation Request and Maintenance Plan: Clark County, Nevada (October 2018)” after the entry for “Ozone Redesignation Request and Maintenance Plan, Clark County, Nevada (March 2011)” to read as follows:

§ 52.1470 Identification of plan.

* * * * *

(e) * * *

EPA-Approved Nevada Nonregulatory and Quasi-Regulatory Measures

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
Air Quality Implementation Plan for the State of Nevada¹				
* * * * *				
Revision to Motor Vehicle Emissions Budgets in Ozone Redesignation Request and Maintenance Plan: Clark County,	Clark County, Nevada: that portion of Clark County that lies in hydrogeographic areas 164A, 164B, 165, 166, 167, 212, 213, 214, 216, 217, and 218, but excluding the	10/31/18	[INSERT FEDERAL REGISTER CITATION], [INSERT DATE OF PUBLICATION]	Conditional approval of revised emission inventory and budgets. Includes a State commitment to revise the

Nevada (October 2018).	Moapa River Indian Reservation and the Fort Mohave Indian Reservation.				budgets within one year.
*	*	*	*	*	*

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¹ The organization of this table generally follows from the organization of the State of Nevada's original 1972 SIP, which was divided into 12 sections. Nonattainment and maintenance plans, among other types of plans, are listed under Section 5 (Control Strategy). Lead SIPs and Small Business Stationary Source Technical and Environmental Compliance Assistance SIPs are listed after Section 12 followed by nonregulatory or quasi-regulatory statutory provisions approved into the SIP. Regulatory statutory provisions are listed in 40 CFR 52.1470(c).

3. Add § 52.1475 to read as follows:

§ 52.1475 Identification of plan – conditional approval.

(a) The EPA is conditionally approving the SIP revision titled "Revision to Motor Vehicle Emissions Budgets in Ozone Redesignation Request and Maintenance Plan: Clark County, Nevada (October 2018)." The conditional approval is based on a commitment from the Clark County Department of Air Quality (DAQ) in a letter dated June 14, 2019, and a commitment from the Nevada Division of Environmental Protection (NDEP) dated June 21, 2019, to submit certain revised motor vehicle emissions budgets as a SIP revision to the EPA within one year of the effective date of the final conditional approval. If the Clark County DAQ or NDEP fail to meet their commitments within one year of the effective date of the final conditional approval, the conditional approval is treated as a disapproval.

(b) [Reserved]

[FR Doc. 2019-18335 Filed: 8/26/2019 8:45 am; Publication Date: 8/27/2019]